

Docket + Return

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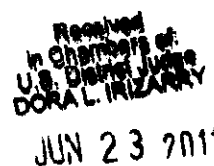
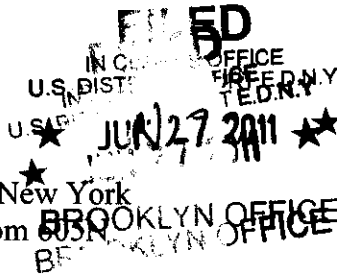
Of Counsel, Littman Krooks LLP

June 22, 2011

**Via FedEx**

Judge Dora L. Irizarry  
United States District Court

For the Eastern District of New York  
225 Cadman Plaza East, Room 603N  
Brooklyn, New York 11201



Re: E\*Trade Securities LLC v. Myron Weiner et al. (11 CV 01997 – DLI – JMA)

Dear Judge Irizarry:

This office represents interpleader defendant Myron Weiner in the above-referenced action. As the Court is aware, this matter was commenced by E\*Trade Securities, LLC's ("Etrade") with the filing of an interpleader complaint as well as a motion for a preliminary injunction. While Mr. Weiner's time to respond to the complaint and injunction does not run until July 11, 2011, the United States Attorney for the Eastern District of New York ("US Attorney") and the Securities and Exchange Commission ("SEC") filed a motion to dismiss the complaint for lack of jurisdiction.

On June 20, 2011, we learned from the US Attorney it had seized the subject funds. This was confirmed soon thereafter when we received the June 20, 2011, joint reply brief filed by the US Attorney and the SEC ("Reply Brief") (Document No. 29). As set forth in the Reply Brief, "[o]n or about June 13, 2011, the government seized the Subject Funds." See Reply Brief, p. 2.<sup>1</sup>

Mr. Weiner did not receive any notice of the motion to seize the subject funds. Those funds contain not only the principal Mr. Weiner utilized for the purchase of the stock at issue, but also the proceeds from the sale of the stock. Mr. Weiner is a party to the action and cannot move forward without knowing the basis for the seizure of the subject funds. We know of no rationale as to why the disclosure to Mr. Weiner could jeopardize the position of the US Attorney as it relates to the subject funds. Indeed, we cannot advise Mr. Weiner of his rights or course of action if we do not know why the subject funds were removed from the Court.

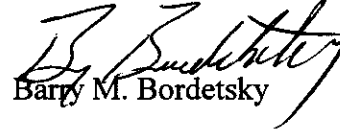
<sup>1</sup> The US Attorney informed the undersigned that the motion was filed under seal. Because that motion was filed under seal, we forward the present letter by FedEx as opposed to ECF to avoid putting into the public information the Court deemed to be sealed.

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Accordingly, we request the opportunity to review all documents filed by the US Attorney as well as any orders signed by the Court that relate to the seizure of the subject funds. The undersigned will of course abide by any order of the Court with respect to maintaining any protective order relating to the content of the documents.

We thank the Court for its consideration of this matter.

Respectfully submitted,

  
Barry M. Bordetsky

cc: By FedEx  
Patrick L. Oot, Esq.  
Brian D. Morris, Esq.  
Joshua S. Sohn, Esq.